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## The Changing Pattern of Workplace Conflict in Ireland

Teague, P., Roche, W. K., Gormley, T., & Currie, D. (2015). *The Changing Pattern of Workplace Conflict in Ireland*. Labour Relations Commission.

### Document Version:

Publisher's PDF, also known as Version of record

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*Innovations in Conflict Management*

*Research Papers*

**Research Paper 2**

**The Changing Pattern of Workplace Conflict in Ireland**

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**January 2015**

## **Introduction**

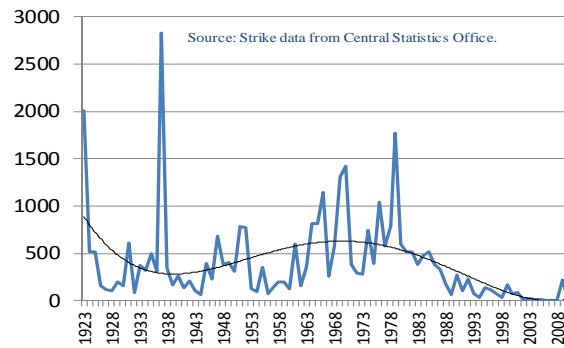
The features of conflict in workplaces in Ireland have changed in major respects over recent decades. Organizations have also sought to manage conflict in different ways to respond to these changes and in line with wider developments in approaches to human resource management and industrial relations. This chapter examines the changing contours of workplace conflict in Ireland. It begins with an analysis of the main trends in both collective conflict and in conflict involving individual employees. In each case the key features of developments in workplace conflict are outlined. The chapter then explores some of the influences on the trends in collective and individual conflict.

### **The Decline of Collective Conflict and Growth of Individual Conflict**

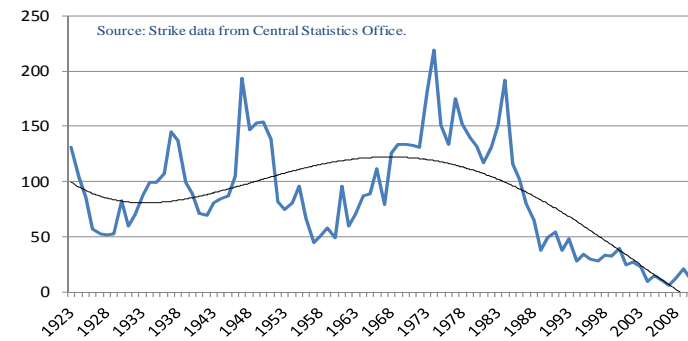
One of the most significant and dramatic trends in conflict in the workplace involves the decline that has occurred in collective conflict involving trade unions and the rise of conflict surrounding the grievances of individual employees. Figures 2.1 and 2.2 (overleaf) present the key indicators in each area, as represented by disputes and grievances referred for resolution to external agencies. All indicators are expressed as ratios of numbers of employees at work to take account of changes in the scale of the workforce over time. Table 2.1 describes each of the indicators in detail. In interpreting the indicators it needs to be borne in mind that they may overlap in significant respects. In the area of collective conflict, strikes may have been preceded or followed by the disputes at issue being referred to the Labour Relations Commission (LRC) or the Labour Court. Referrals to both of these bodies also commonly overlap – conciliation at the LRC commonly preceding the adjudication of disputes by the Labour Court. The same holds for individual conflict. For example, some cases referred to the Rights Commissioner Service of the LRC may subsequently be referred on appeal to the Employment Appeals Tribunal (EAT) or to the Labour Court. In the case of some employment grievances, different issues may be referred simultaneously to different agencies.

**Figure 2.1 Collective Conflict at Work - Indicators**

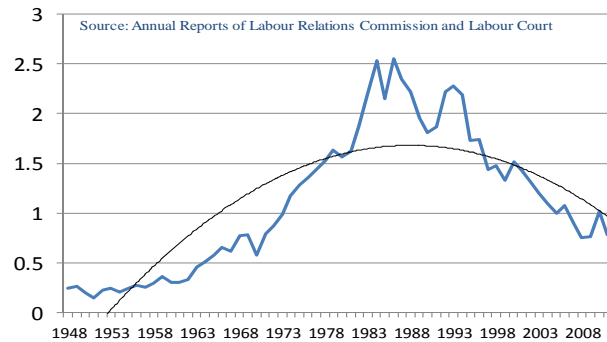
*a. Working Days Lost in Ireland Per Thousand Employees at Work*



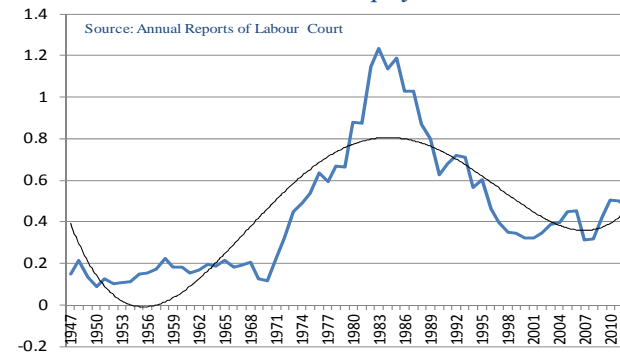
*b. Number of Strikes in Ireland*



*c. Cases Involving Conciliation Per Thousand Employees at Work*

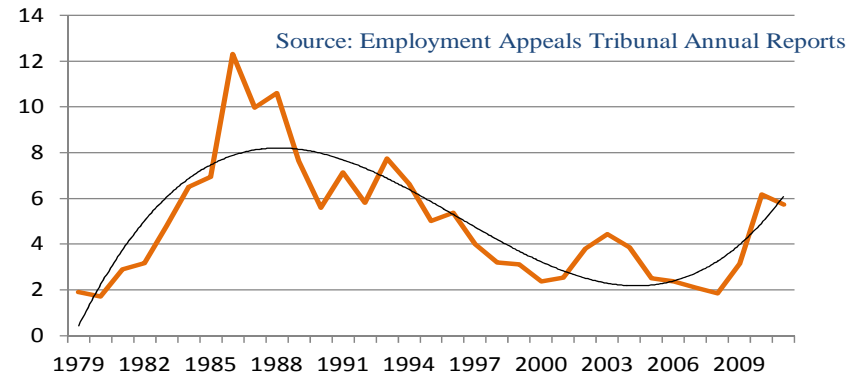


*d. Labour Court Cases Under the Industrial Relations Acts Per Thousand Employees*

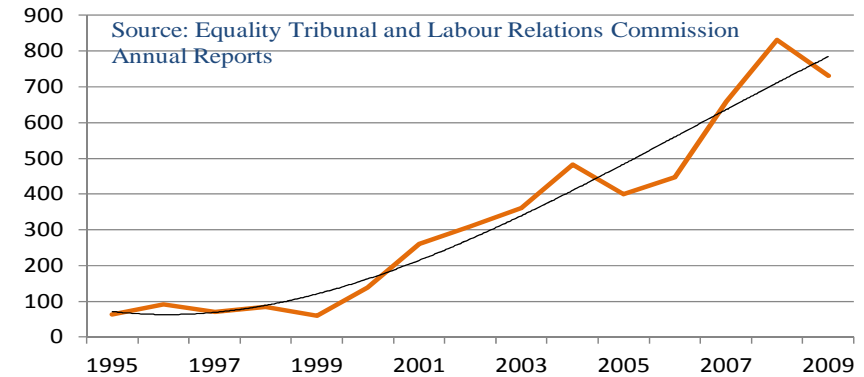


**Figure 2.2 Individual Conflict at Work - Indicators**

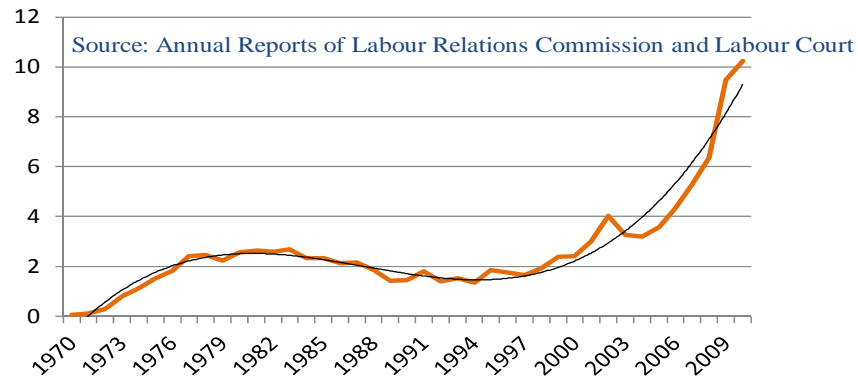
**a. Cases Referred to the Employment Appeals Tribunal per Thousand Employees at Work**



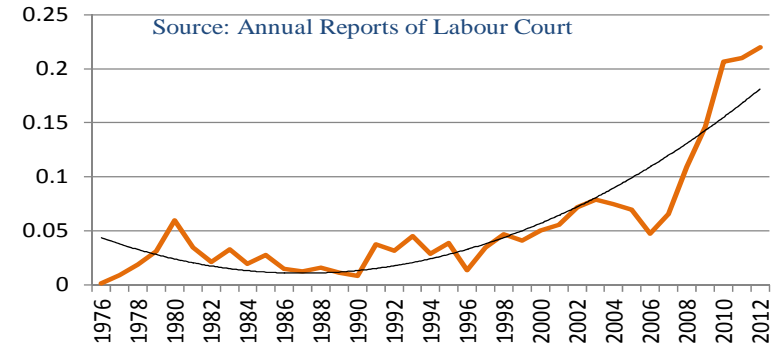
**b. Employment-Related Cases Referred to the Equality Tribunal Under Employment Equality Acts**



**c. Cases Referred to the Rights Commissioners Per Thousand Employees at Work**



**d. Labour Court Cases Under the Employment Acts Per Thousand Employees**



**Table 2.1 Collective and Individual Conflict at Work – Details of Indicators**

<i>Indicators of Collective Conflict at Work</i>	
Strike activity:	The Central Statistics Office collects data on strike activity, which includes three major indicators of strikes: the number of strikes occurring each year, the numbers of workers involved in strikes and the numbers of working days lost by employees involved in strikes ( <a href="http://www.cso.ie/en/surveysandmethodology/labourmarket/industrialdisputes">www.cso.ie/en/surveysandmethodology/labourmarket/industrialdisputes</a> )
Conciliation conferences:	Disputes between unions and employers that prove incapable of settlement through the use of procedures in firms may be referred to conciliation at the Labour Relations Commission (from 1946 until 1990 the Labour Court). Conciliation conferences involve Industrial Relations Officers, who are public servants, seeking to find a basis to settle disputes that is acceptable to the parties involved ( <a href="http://www.lrc.ie/viewdoc.asp?DocID=739&amp;ad=1&amp;m=2">www.lrc.ie/viewdoc.asp?DocID=739&amp;ad=1&amp;m=2</a> )
Labour Court hearings:	If cases cannot be resolved through conciliation they may be heard by the Labour Court, a three-person tribunal, comprising experts, who act in a public service capacity. The Labour Court may issue recommendations, outlining how, in its view, a dispute ought to be resolved and, in some instances, legally-binding determinations. This role is distinct from the investigation and appellate powers of the Court under various employment acts ( <a href="http://www.labourcourt.ie/labour/labour.nsf/lookuppagelink/HomeServiceGuide">www.labourcourt.ie/labour/labour.nsf/lookuppagelink/HomeServiceGuide</a> )
<i>Indicators of Individual Conflict at Work</i>	
Cases referred to the Rights Commissioners:	Since 1970 individual or small groups of employees can take grievances to ‘Rights Commissioners’ and seek to have these resolved by mediation or adjudication (the service is managed from within the Labour Relations Commission and is commonly provided by former union officials, HR managers or others with a similar background). Over time the jurisdiction of Rights Commissioners has grown as they have been assigned a role in resolving disputes under an expanding body of legislation ( <a href="http://www.lrc.ie/document/Introduction-to-the-Rights-Commission/4/744.htm">www.lrc.ie/document/Introduction-to-the-Rights-Commission/4/744.htm</a> )
Cases referred to the Employment Appeals Tribunal:	The Employment Appeals Tribunal (EAT) was established in 1977 and hears cases under an expanding body of employment legislation. The EAT also hears appeals of cases initially heard by Rights Commissioners ( <a href="http://www.eatribunal.ie">www.eatribunal.ie</a> )
Cases referred to the Equality Tribunal:	The Equality Tribunal was established in 1999 out of the 1998 Office of the Director of Equality Investigations and prior to that fell within the jurisdiction of the Labour Relations Commission. The Tribunal hears or mediates employment cases taken under equality legislation, as well as exercising a wider brief under equality legislation ( <a href="http://www.equalitytribunal.ie">www.equalitytribunal.ie</a> )
Cases referred to the Labour Court under Employment Acts:	Since 1976 the Labour Court has heard grievances or appeals referred to it under the expanding body of employment legislation. Many of these cases or appeals involve cases presented by individual employees ( <a href="http://www.labourcourt.ie/labour/labour.nsf/lookuppagelink/HomeAboutUs">www.labourcourt.ie/labour/labour.nsf/lookuppagelink/HomeAboutUs</a> )

As revealed in Figure 2.1, panels a. and b., the incidence of strikes and of working days lost due to industrial disputes show strong downward trends from their pronounced historical peaks during the 1960s and 1970s (leaving aside the short peak in working days lost during the 1930s). It has been observed that, historically, strike activity in Ireland has been procyclical in nature, rising during times of economic prosperity and declining in recessionary periods (Brannick *et al.* 1997). This pattern was not however evident from the 1980s onwards. During the 1980s the incidence of strikes remained high, as, until the early 1980s, did the level of working days lost, against a background of deepening recession. From the 1990s, both indicators of collective conflict reached their lowest ever levels as the economy entered a period of unprecedented growth and buoyancy. The underlying long-run patterns are captured by non-linear time trends and reveal sharp reductions in both series from the 1980s onwards.<sup>1</sup>

A similar trend is reflected in the incidence of cases involving conciliation conferences at the Labour Court and (from 1990) at the Labour Relations Commission (LRC) and of cases heard by the Labour Court since it was established in 1946. Conciliation has long been a standard step in dispute procedures in Irish industrial relations and panel c. of Figure 2.1 reveals a sharp reduction in the incidence of conciliation from the mid- to late 1990s. Conciliation activity peaked during the late 1970s and into the 1980s. This in part reflected the upsurge in strike activity during the latter half of the 1970s and the requirement under national pay agreements during the decade that disputes should be referred to the Labour Court for conciliation and adjudication prior to the occurrence of work stoppages. Panel d. of Figure 2.1 charts the incidence of cases heard by the Labour Court under the Industrial Relations Acts. These cases in the main would have involved disputes concerning pay and conditions of employment, whether under an existing collective agreement, or outside the ambit of such agreements. The trend reveals a sharp fall in the incidence of Labour Court hearings from the late 1980s. The volume of Labour Court adjudications rose sharply during the 1970s and peaked during the 1980s, declining thereafter until the period since the advent of the Great Recession, when a rise is evident in this indicator.

Taking all indicators and their underlying trends together, collective conflict through trade union representation shows a strong downward trend in workplaces in Ireland from the 1990s and sometimes before then. Strike activity peaked during the 1970s, when the volume of conciliation activity and Labour Court hearings also rose sharply. Conciliation and Labour Court adjudication continued at historically high levels into the 1980s or early 1990s – this

time in the absence of nationally agreed disputes procedures – and declined thereafter. The overall picture is clear. The period from the 1990s has involved less collective workplace conflict than at any other time in Ireland’s history since Independence.

Turning to conflict arising from individual grievances in the workplace, the general trend is the reverse of that observed for collective conflict. Figure 2.2 presents the trends and Table 2.1 provides a detailed description of the indicators of individual conflict. As shown in Figure 2.2 panel a., the trend in cases of alleged infringements of employment rights, referred to the EAT since that body’s establishment in 1977, reveals a significant fall from the peak recorded from the 1980s to the mid-1990s and a sharp rise following the onset of the recession in 2008. The trend reveals a pronounced counter-cyclical pattern in the work of the EAT, with referrals rising in recessionary periods and declining in periods of economic growth. The rise in the incidence of referrals from the early 2000s reflected both a widening in the jurisdiction of the EAT, as new employment rights were enacted or existing rights were amended, and a rise in referrals under legislation in being. The sharp drop from 2003 reflected a legislative change that allowed claims under minimum notice legislation to be referred directly for payment under the social insurance fund where an employer was insolvent.

Cases referred to the Equality Tribunal since that body’s establishment in 1999 to administer the equality rights acts, and before then referred to the LRC, reveal a sharp upward trend, which rises even more sharply from the early 2000s. This again reflects both the widening jurisdiction of the Tribunal as employment equality law expanded and a rise in the incidence of grievances under the laws in being. Cases referred to the Rights Commissioner Service of the LRC mainly involve individual employees seeking to resolve grievances under employment rights legislation or general grievances concerning their treatment at work. It is clear from panel c. that there has been a sharp rise in the incidence of referrals to the Rights Commissioners since the late 1990s and particularly during the first decade of the 2000s. This reflects both the widening of the jurisdiction of the Rights Commissioner Service under the growing body of employment legislation from the 1990s and again a rise in cases under legislation in being. The Labour Court has been assigned a progressively widening jurisdiction under the growing body of employment legislation. As shown in panel d., cases heard by the Labour Court under the employment acts rose particularly sharply since the early 2000s, with the rate of acceleration rising from about the middle of the decade.



In interpreting trends in referrals of individual employment grievances to the state agencies, it needs to be borne in mind that unionized employees are commonly represented by lay or professional union officials in grievances heard by Rights Commissioners, the Labour Court and the EAT. An analysis of cases handled by the Rights Commissioners in 2006 found that 49 per cent of claimants were represented by trade unions (Hann & Teague 2008a: 42). In cases concluded by the EAT between January 2005 and October 2007, spanning the period 2000 to 2007, 29 per cent were represented by unions (Hann & Teague 2008b: 4). In this way, unions in Ireland often act as the ‘custodians of individual rights’, to adopt Brown *et al.*’s (2000) portrayal of a similar pattern in the UK. Another issue that needs to be borne in mind is that unions sometimes orchestrate multiple referrals by individual members on the same issue to the Rights Commissioners, judging that this provides the most effective means of addressing the underlying issue involved where negotiations with an employer have proven ineffective. An example is provided by the decision of the Irish Bank Officials’ Association (IBOA) to proceed through the Rights Commissioners, citing the Payment of Wages Act, in a dispute with Ulster Bank over the non-payment of an allowance and of performance payments following the banking crisis (*Industrial Relations News*, 9 June 2010). In such instances collective disputes are in effect masquerading as individual grievances. The data available do not allow for this type of grievance to be distinguished from more strictly individual grievances. However, it is unlikely that they greatly distort the trend.

Taking all the indicators and their underlying trends together, again the picture they reveal is clear. Individual employees have looked to state-mandated agencies to resolve or gain redress for grievances at work with growing frequency since the 1990s. Resort to these agencies has grown particularly dramatically from early in, to the middle of, the first decade of the 2000s.

While conflict involving individual employees appears to be rising and collective conflict at work appears (at least for now) to be on the wane, it would be incorrect to infer from these trends that individual conflict now affects greatly more workplaces or employees than collective conflict. While the limited availability of data makes any comparisons of the relative incidence of collective and individual conflict problematic, the data in Table 2.2 are instructive. Just over 10 firms per year on average were affected by strikes over the period 2004–2011 – omitting the untypical year 2009, when a general strike occurred across the public service in protest at the Government’s pay and economic policies. No comparable data for the period are available for firms affected by forms of industrial action other than strikes (overtime bans, restrictions on flexibility etc.). However, survey data for 2007–2008 (Hann *et*

al. 2009) reveal that 8 per cent of firms were affected by non-strike sanctions and 12 per cent by one or more collective disputes referred to the LRC and Labour Court. The comparable figure for the proportion of firms where one or more individual grievances were referred to the Rights Commissioners service, the EAT or the Courts during 2007–2008 was 14 per cent.

**Table 2.2 Firms Affected by Collective Disputes & Individual Grievances**

<b>Collective Conflict</b>		<b>Number *</b>	<b>% Firms</b>
1.	Average no. of firms affected by strikes, 2004–2011	10.4	
2.	Firms affected by other industrial action of any kind during 2007–2008		7.7
3.	Firms where one or more disputes referred to the Labour Relations Commission and Labour Court during 2007–2008		12.1
<b>Individual Conflict</b>			
4.	Firms where one or more individual employment grievances referred to Rights Commissioners, Employment Tribunals and Courts, 2007–2008		14.3

\* Untypical value for 2009 omitted, when strikes affected a large number of public service organizations.

Sources: (1) CSO (2–4); Hann, Roche & Teague, *Managing Workplace Conflict in Ireland*, Dublin: Government Publications, 2009, p. 40.

**Table 2.3 Employees Affected by Collective and Individual Conflict, 2000–2010**

		<i>Annual Averages</i>
<b>Collective Conflict</b>		
Employees involved in strikes, 2000–2010*		6.1 employees per thousand at work
<b>Individual Conflict</b>		
Employees involved in grievances referred to Rights Commissioners, 2000–2010		5.0 employees per thousand at work
Employees involved in cases referred to the Employment Appeals Tribunal		3.2 employees per thousand at work

\* Untypical value for 2009 omitted, when public service stoppages involved large numbers of workers.

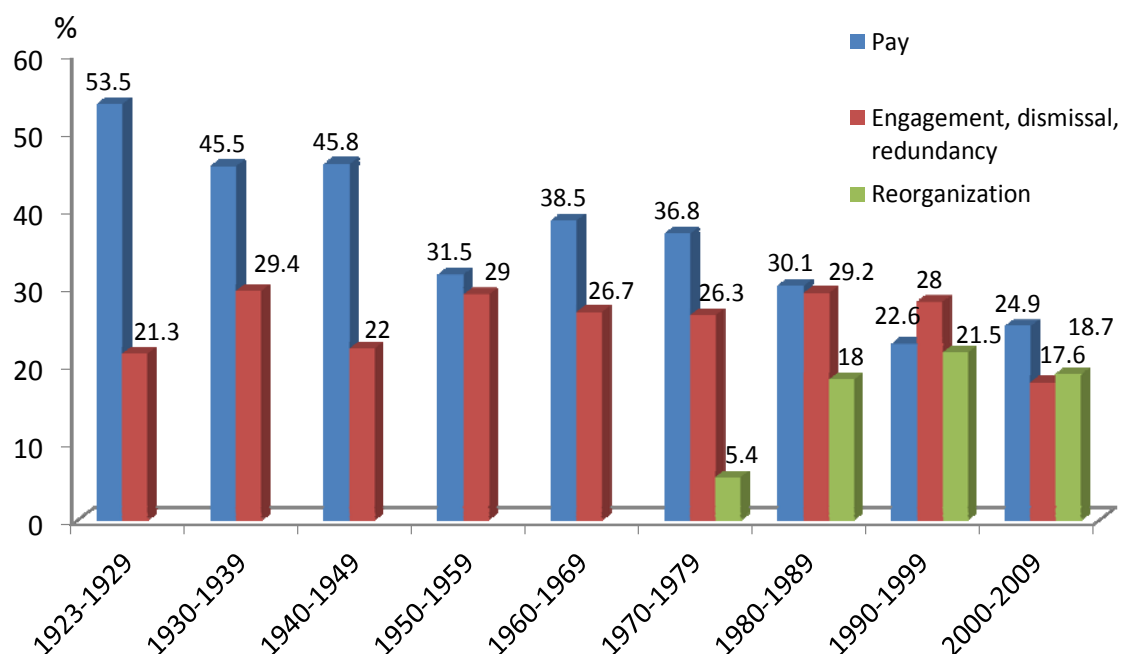
Sources: Sources outlined in relevant trend graphs.

Table 2.3 looks at the picture in terms of employees involved in collective and individual conflict rather than firms, and here the data are more reliable. It emerges that somewhat more employees were involved in strikes over the period 2000–2010 – approximately 6 employees per 1,000 at work – than either in referring grievances to the Rights Commissioner Service (5 employees per 1,000 at work) or to the EAT (3.2 employees per thousand at work). Again it needs to be borne in mind that some degree of overlap exists between referrals to the Rights Commissioners and the EAT, so these two estimates cannot simply be combined into an overall estimate of individual referrals to the state agencies. That said, the general picture appears to be that during recent years somewhat fewer firms but more employees have been involved in collective rather than individual conflict in workplaces in Ireland.

### The Pattern of Conflict at Work

Figure 2.3 shows that pay has been the main issue in dispute in strikes over virtually the entire period since 1922, with the exception of the 1990s when it was overtaken by conflict surrounding engagement, dismissal and redundancies.

**Figure 2.3 Major Issues in Strikes**

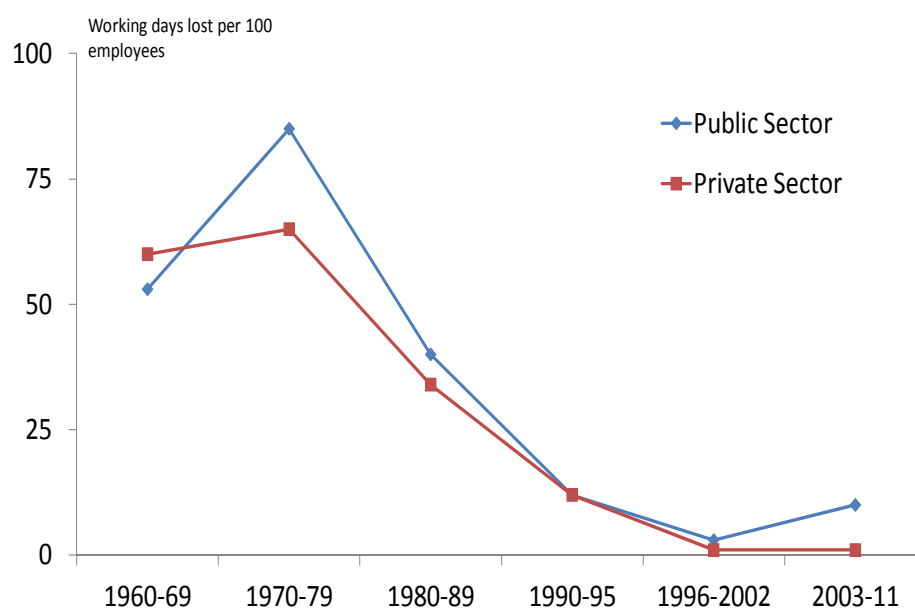


Sources: *Report of the Commission of Inquiry on Industrial Relations*, Dublin: Government Publications, 1981, p.335, updated by data in the *Irish Statistical Bulletin* and data made available by the CSO.

Engagement, dismissal and redundancy has otherwise consistently been the second most prevalent cause of collective conflict. The statistics introduced another category from the 1970s, conflict surrounding reorganization, and this has been a significant contributor to the strike record since the 1980s. As is clear from Figure 2.3, conflict over recruitment and severance combined with conflict over work and company reorganization have been more significant than conflict over pay in strike activity since the 1980s.

The waning importance of pay as a source of conflict during recent decades probably reflects the effects of social partnership-linked national pay agreements from the late 1980s. These pay agreements took pay out of contention in workplace employment relations to a significant extent. National pay agreements during the 1970s failed to have the same effect, as they are widely understood to have been subject to extensive ‘second-tier’ pay bargaining at sector and workplace levels (Roche 1997). Prior to the 1970s, decentralized ‘pay rounds’ put wages into contention in sectors and workplaces, whereas four national pay rounds from the 1940s to the 1970s involved only loose frameworks guiding bargaining at lower levels.

**Figure 2.4 Strike Proneness of the Private and Public Sectors**



Sources: Data for period 1960-1995 from Brannick et al., 'Industrial Conflict', in Murphy and Roche eds., *Irish Industrial Relations in Practice* (Dublin: Oak Tree Press, 1997), p. 313. Data for 1996-2002 calculated from data in Wallace et al., *Industrial Relations in Ireland* (Dublin, Gill & Macmillan, 2004), p227 and from ILO Employment Data. Data for 2003-11 from CSO industrial disputes data and ILO Employment data.

Figure 2.4 reveals the trend since the 1960s in the relative proneness to industrial conflict of the public and private sectors. The public sector has been nearly consistently more prone to industrial conflict, assessed in terms of working days lost weighted for employment, than the

private sector – the exception being the first half of the 1990s when the sectors converged for a time. The gap between the sectors has widened significantly since the 1990s, when the ratio of the public to private sector strikes moved from 3:1 to 10:1 in the context of a declining trend in collective conflict in both sectors. The public sector profile for the period 2003–2011 is significantly affected by the general strike across the public service in 2009. The collective conflict differential between the two sectors and its movement can be attributed to a number of factors. First, the public sector contains a number of industries that are particularly conflict prone, especially transport, turf production and electricity, gas and water. Secondly, the sector is characterized by relatively high trade union density, which has been comparatively unaffected by the sharp downward trend in unionization evident in the private sector from the early 1980s. Thirdly, much of the public sector has been insulated from the growing and increasingly global competition that has affected the private sector, impairing strikes as a weapon of industrial conflict in firms exposed to intensified competition.<sup>2</sup> Finally, under the social partnership agreements from the late 1980s, second-tier pay bargaining, backed by industrial action, was more a feature of the public than the private sector over much of the period of centralized bargaining.

Considerable stability is evident in the rankings of conflict-prone sectors. Building on the analysis by Brannick *et al.* (1997), Table 2.4 ranks the most conflict-prone industrial sectors.

**Table 2.4 Strike Proneness of Different Sectors**

	Average Annual Working Days Lost per 100,000 Employees				
	Rankings				
	1922–41	1942–61	1962–81	1982–92	1993–2008
Manufacturing	5	3	3	4	3
Construction	2	5	4	5	4
Transport & communications	3	4	2	3	1
Electricity, gas and water	4	2	5	1	5
Mining, quarrying & turf	1	1	1	2	2

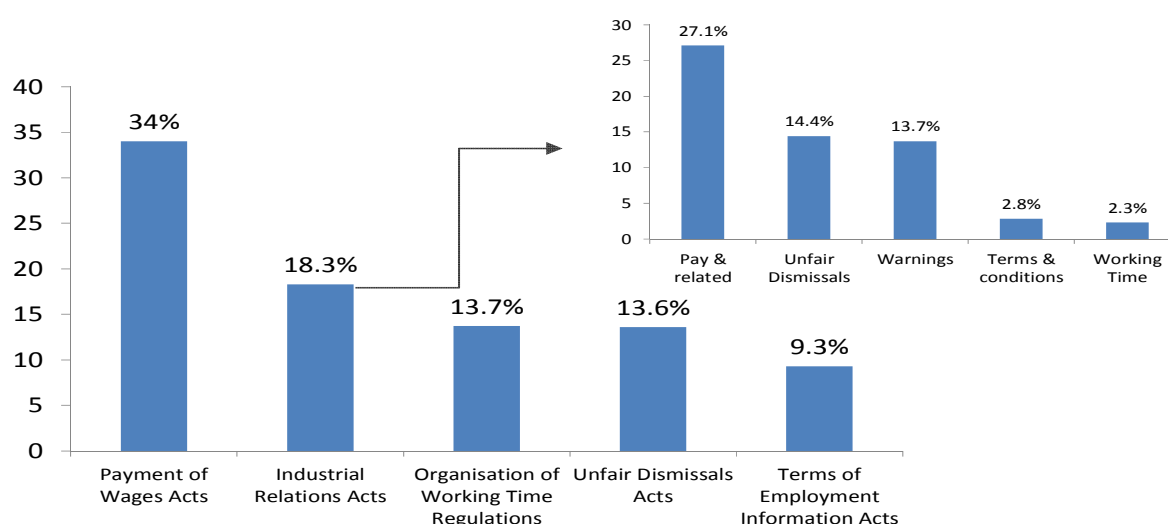
Source: Brannick *et al.* 1997; updated from CSO industrial disputes data.

Mining, quarrying and turf production have remained at or close to the top of the rankings. Electricity, gas and water are also highly ranked. Lower in the rankings come manufacturing and construction. There has been little significant change from the 1990s in the rankings of these sectors compared to their historical records.

In summary, conflict over the engagement and termination of employees, combined with conflict linked to work and organizational reorganization, have become the main areas where conflict arises at work leading to strikes. These flash points have replaced pay as the main source of conflict in the workplace. The public sector has become significantly more prone to industrial conflict than the private sector, while rankings of strike-prone industrial sectors have not changed greatly during recent decades.

With respect to the pattern of individual conflict, an analysis of cases heard by Rights Commissioners during 2006, presented in Figure 2.5, reveals the dominance of grievances over the payment of wages, working time, dismissals and terms of employment. These are areas heard in the context of statutory employment rights.<sup>3</sup> Areas heard outside the ambit of employment rights and treated as industrial relations grievances largely mirror this pattern.

**Figure 2.5 Major Areas Involved in Cases Heard by the Rights Commissioner Service**



Source: Random sample of 3,798 cases (approx 67% of all cases) at the Rights Commissioner Service in 2006, from Teague & Hann, *The Role of the Rights Commissioners in the Irish Employment System: Solving Problems & Vindicating Rights*, Dublin, Labour Relations Commission (unpublished) pp. 47 and 55.

As shown in the upper panel of Figure 2.5, pay and matters related to pay (typically involving the non-payment or underpayment of wages), unfair dismissals, terms and conditions and working time are again prominent sources of grievances, while warnings issued to employees

also emerge as an area of contention. Cases referred or appealed to the EAT mainly concern unfair dismissals, minimum notice legislation, redundancies and payment of wages.

Comparing issues giving rise to collective conflict (as reflected in strikes data) and individual conflict (as reflected in cases heard by the Rights Commissioners and the EAT), it is striking how similar they appear. Pay is important in both collective and individual conflict, albeit in somewhat different ways in each case: pay adjustments figuring more in collective disputes and the administration of pay systems figuring more in cases at the Rights Commissioners and the EAT. Dismissals, redundancies and various aspects of staff deployment also figure significantly in both arenas of conflict. The main difference appears to be that collective conflict is more likely to directly involve industrial relations issues surrounding reorganization than is individual conflict.

The sectors that predominate in individual grievances heard by the state agencies can only be identified for limited periods, although there are no reasons for supposing that the general picture is significantly different. Cases dealt with by the Rights Commissioner Service in 2006 showed strong concentrations in construction (17 per cent of all cases or 2.5 grievances per thousand employees), the wholesale and retail trades (12 per cent or 1.5 grievances per thousand employees), hotels (12 per cent or 3.3 grievances per thousand employees), real estate, renting and business activities (11 per cent or 2.1 grievances per thousand employees) and manufacturing (9 per cent or 1 grievance per thousand employees). The private sector accounted for an estimated 78 per cent of all grievances, compared to the remaining 22 per cent arising in the public sector. Weighted for employment, this represents a similar grievance rate of about 1.4 grievances in each sector.<sup>4</sup> It is notable that the Health Services Executive accounted for 2.0 grievances per thousand employees.<sup>5</sup>

Hann & Teague's (2008b) analysis of cases spanning the period 2000 to 2007, completed by the EAT between 2005 and October 2007, shows significant concentrations of grievances in manufacturing (18 per cent or 1.9 grievances per thousand employees), the wholesale and retail trades (14 per cent or 1.8 grievances per thousand employees), construction (13 per cent or 2.4 grievances per thousand employees), real estate, renting and business activities (12 per cent or 2.4 grievances per thousand employees) and hotels and restaurants (11 per cent or 3.0 grievances per thousand employees).<sup>6</sup> Ninety-six per cent of all claims arose in the private sector. The rankings of sectors that predominate with respect to individual grievances presented to the public agencies show some measure of overlap with those that predominate

in the strike record but also some distinctive features. Employees in construction and manufacturing are among those more prone to engage in industrial conflict and to pursue individual grievances. However, employees working in hotels and restaurants, while not strike-prone, are the most likely to pursue grievances. This may reflect the relatively low level of unionization and collective representation in the sector (currently standing at about 8 per cent), as well as the working-time patterns and work practices that prevail. Employees in wholesale and retail firms, again not strike prone, also have relatively limited union representation, and may have to rely on their own initiative to resolve grievances. The concentration of individual employment grievances in real estate, renting and business services is harder to account for. While a reliable union density estimate is not available for this part of the relatively highly unionized financial services sector, it seems likely that the rate of unionization is low and that many employees have little alternative other than to pursue grievances on an individual basis.

The parity found between the private and public sectors in cases dealt with by the Rights Commissioner Service also diverges from the greater strike-proneness of the public over the private sector. This may in part reflect the significantly lower union density in the private as opposed to the public sector (about 28 per cent compared to 69 per cent in 2004) and thus the lower availability of collective remedies for grievances in the private sector. The virtual monopoly of the private sector in cases at the EAT probably reflects the same influence, as well as the rarity of dismissals in the public service – the Unfair Dismissals Acts had applied to most public servants by the middle of 2006 – more regulated employment practices in the public sector and a greater reluctance by public service employers to allow grievances to proceed to the EAT, where they could be aired in public and widely reported in the media.

Workplace bullying is a form of conflict affecting individuals. Survey data on the incidence of workplace bullying are available for 2001 and 2007 – a short time series. These show that just under 8 per cent of employees experienced workplace bullying in 2007, a slight but statistically insignificant rise on the rate for 2001 (O’Connell *et al.* 2007: 10). The risk was higher across a range of service industries: education, public administration, health, social work, transport and communications and was higher among women than among men. Changes in management and reorganization were associated with a heightened risk of experiencing bullying (O’Connell *et al.* 2007: 11–12). The great majority of those affected deal with bullying informally. Just over 56 per cent discussed incidents with their supervisor; 21 per cent used grievance procedures (O’Connell *et al.* 2007: 50). A recent survey of



bullying experienced by nurses in the health service reported that 38 per cent had experienced bullying and 15 per cent formally reported the occurrence, using the procedure, to their supervisors (MacMahon *et al.* 2013). While methodological differences make comparisons between surveys difficult, this is a very much higher incidence of bullying than the 13 per cent rate for health and social work in the 2007 national bullying survey and, it seems, a lower propensity to follow formal procedures (O’Connell *et al.* 2007: 38). While the 2007 survey reported that the risk of bullying was lower where formal policies on bullying existed, the study of bullying experienced by nurses concluded that formal policies and procedures were largely ineffective (MacMahon *et al.* 2013).

### **Influences on the Trends in Conflict at Work**

The decline of collective conflict in Ireland mirrors developments in other developed economies (Dix *et al.* 2009; Godard 2011; Scheuer 2006). The growth of individual conflict mirrors developments in Britain and emerges as a theme in reviews of trends in work conflict in other developed economies (Dix *et al.* 2009; Godard 2011). This section considers some of the influences that help account for the evident ‘individualization of conflict at work’ in Ireland. These are summarized in Table 2.5.

**Table 2.5 Influences on Trends in Collective & Individual Conflict at Work**

<i><b>Decline in Collective Conflict</b></i>	<i><b>Growth in Individual Conflict</b></i>
<ul style="list-style-type: none"> <li>• Decline in strike-prone sectors</li> <li>• Decline in union density &amp; in coverage of collective bargaining</li> <li>• Changes in levels at which collective bargaining takes place</li> <li>• Changes in priorities of union members (?)</li> <li>• Changing competitive environment</li> <li>• Legal restrictions on industrial action</li> <li>• Growth in legislation on employment rights</li> </ul>	<ul style="list-style-type: none"> <li>• Decline in union density &amp; in coverage of collective bargaining</li> <li>• Changes in social values of workforce – ‘individualization’ (?)</li> <li>• More onerous work and employment regimes (?)</li> <li>• Growth in legislation on employment rights</li> <li>• Growing resolve of employees to assert &amp; vindicate new rights</li> </ul>

*Decline of strike-prone sectors:* The decline in collective conflict in work can be explained in part by the declining share of the workforce employed in strike-prone sectors such as mining, quarrying and turf production and manufacturing in general, but especially in the more strike-prone, traditional and heavy manufacturing industries like paper and printing, glass and cement, metal manufacturing and engineering (Brannick *et al.* 1997). Construction employment also underwent long-run decline, although the share of employment in construction surged during the building boom from the early 2000s to 2006. The general long-run trend in private sector employment involved the decline of manufacturing employment and the growth of employment in services, which favoured a reduction in industrial conflict in Ireland as in other countries (Hale 2008). The employment share of the relatively highly strike-prone public sector has also declined.

*Decline of trade union density and bargaining coverage:* Trade union density and thus the numbers of people represented by unions have also declined sharply from the early 1980s. This means that progressively fewer employees can seek collective remedies for workplace grievances. The scale of the decline in union density from the 1980s has been dramatic: the numbers of people represented by trade unions falling by more than 33 per cent from 1980 to 2009.<sup>7</sup> Union density has declined across most parts of the private sector, and so the effects of declining density have been widely prevalent across the private sector workforce.

While levels and trends in union density and collective bargaining coverage are intertwined, they are not one and the same. Not every employee who is unionized is covered by active collective representation, as some employers may either refuse to recognize unions or not engage in collective bargaining. Also employees who are not union members may nevertheless have their pay and conditions fixed through collective bargaining by unions who negotiate in their workplaces or because their employers are subject to sector or national pay agreements. So the coverage of collective bargaining is distinct from the level of trade union density. While no reliable time-series data are available for Ireland on the coverage of collective bargaining, this too has declined in recent decades, as increasing numbers of firms have demurred from conceding trade union recognition, especially in sectors where employment has been expanding (Roche 2001). With the contraction in the coverage of collective bargaining, the numbers of people whose pay and conditions are fixed through collective agreements that might become periodically subject to disputes or strikes have again declined.

*Changes in bargaining levels:* Changes in the levels at which collective bargaining occurs can also influence the trend in collective conflict. For example, where pay bargaining occurs at sector level, as was frequently the case in Ireland before the advent of national pay bargaining during the 1970s, strikes over pay are more likely to be sector-wide and to involve larger numbers of employees and more working-days lost. Where pay bargaining occurs at the level of individual firms, as was mainly the case in Ireland during the 1980s, industrial conflict is more likely to be restricted to minorities of employers, with commensurately fewer working-days lost (Scheuer 2006).

National-level pay bargaining, unless it is accompanied by general strikes, would be expected to lead to lower levels of industrial conflict because it involves pay being fixed through negotiations between union and employer associations. Bargaining at this level removes pay from contention and conflict at sector or firm level. However, in the case of Ireland, no simple or consistent association has existed between the incidence of national pay bargaining and lower levels of industrial conflict. The period from 1970-1980 involved nine successive national pay agreements but also involved the highest levels of industrial conflict in the history of the State – not due to national strikes but to widespread second-tier pay bargaining at sector and firm levels (Roche 1997). The record during the period of social partnership between 1987 and 2009 was strikingly different and witnessed the lowest levels of industrial conflict in the history of the State. Could national bargaining during this period have been a significant influence on the low level of conflict, as was widely claimed during the social partnership era? As is apparent from panel a. of Figure 2.1, while the number of strikes that occurred during much of the 1980s matched levels reached during the 1970s, the numbers of working-days lost had begun to fall before the advent of social partnership in the late 1980s. In assessing the influence of national bargaining under social partnership on the trend, it must also be borne in mind that working-days lost due to strikes also fell sharply from the 1980s in other developed economies with a variety of bargaining levels and configurations. That said, the rate of decline in Ireland was high compared to other European countries. Ireland moved down the ‘league table’ of working days lost from the 1980s to the middle of the first decade of the 2000s, shifting its traditional position from the ‘middle range’ countries in the league table to a position closer to that of low-conflict countries (Hale 2008; Scheuer 2006). This suggests that, while internationally prevalent influences on declining strike activity explain some of the decrease in industrial conflict in Ireland from the 1980s, national influences, like the social partnership agreements, further reduced the seriousness of strikes. The role of

national pay bargaining and associated procedures for dispute resolution in dampening collective conflict from the late 1980s seems particularly significant given that levels of economic growth achieved from the mid-1990s were unprecedented and yet the pro-cyclical pattern of industrial conflict, that had been a long-established feature of the Irish strike record, failed to recur. During this period, economists who were reluctant to concede that national pay agreements had played any significant role in moderating pay rises claimed that they had nevertheless reduced the incidence and seriousness of industrial conflict by effectively reconciling the bargaining expectations of employers and unions (see Roche 2012). While it seems reasonable to conclude that national pay bargaining under social partnership was one of the influences on the decline in industrial conflict, the national agreements were also uneven in their impact: containing conflict to a greater extent in the private than the public sector, where second-tier bargaining and pay drift, backed by industrial action, remained more significant, as reflected in the different trends in industrial conflict in each of these sectors represented in Figure 2.4.

*Changing priorities of union members:* A further influence that may have contributed to declining industrial conflict was the changing priorities of union members with respect to how they wished to be represented. No reliable time series data are available on this but data collected in 2001 and 2005 indicate that union members may prefer to be represented on a co-operative basis or through ‘partnership’ with employers more than through collective bargaining of a more conventional and adversarial character. Table 2.6 presents the results of surveys undertaken in 2001 and 2005. The questions asked were somewhat different and so the results for similar items cannot be directly compared. The data are nevertheless instructive in indicating the substantial support that appeared to exist for co-operative forms of representation. While no data are available for earlier years, it seems unlikely that co-operation with employers may have figured to such an extent as a preferred mode of representation given that partnership and associated modes of representation had only come into vogue from the late 1990s, with the advent of the first national framework on partnership in the workplace in the 1997–2000 national social partnership agreement.

**Table 2.6 Preferences for Union Representation**

	% Employees
<b>Geary 2005 Survey (1,420 people):</b>	
Unions should extend their role beyond collective bargaining and develop co-operative relations with employers to improve organizational performance	58
<b>ICTU 2001 Survey (1,000 people):</b>	
The best way to pursue issues of concern in the workplace is:	
• through joint partnership agreements	50
• through head-to-head negotiations by unions on behalf of members	29
• through negotiating as individual workers	16
• through house committees/associations	5

Sources: Geary, J. 'Employee Voice in the Irish Workplace: Status and Prospects', in Haynes, P. and Freeman R. (eds), *What Workers Say: Employee Voice in the Anglo-Saxon World*, Ithaca: Cornell University Press, 2007; ICTU, *Unions and Work: Highlights of a Survey Conducted by Research and Evaluation Services for the Irish Congress of Trade Unions*, Dublin: ICTU 2001.

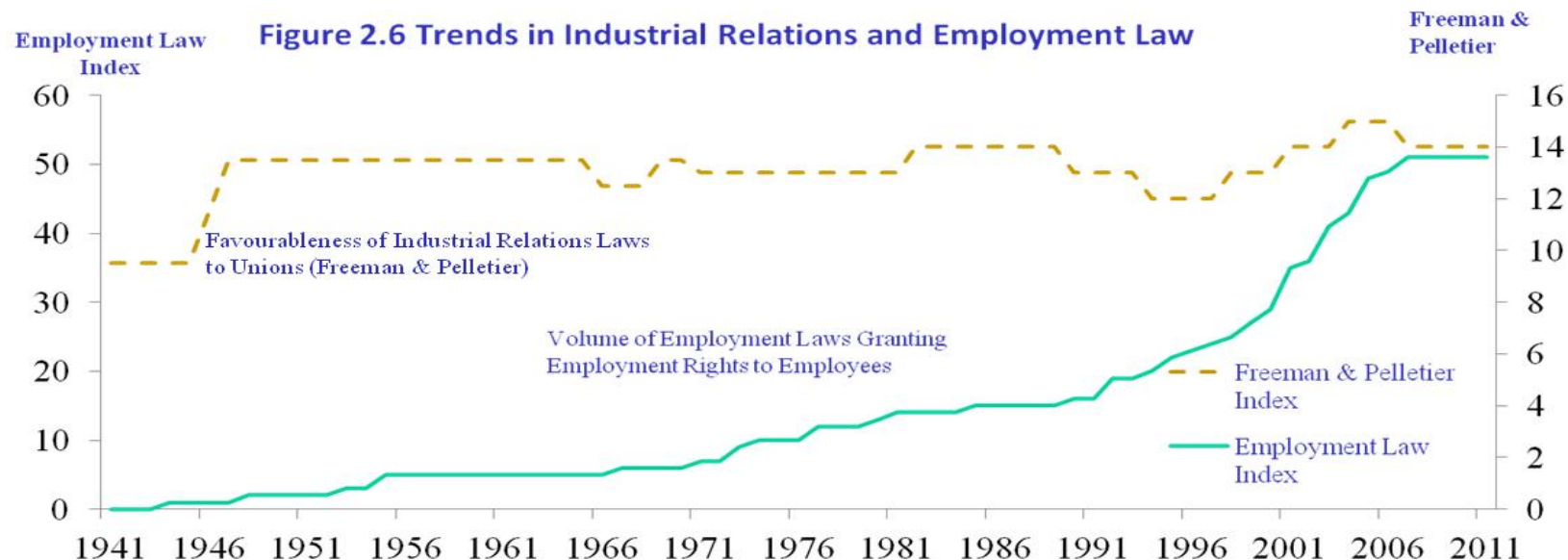
**The changing competitive environment:** One of the most frequently mentioned influences on declining industrial conflict in the international literature concerns the effects of the changing competitive environment on the effectiveness of strike action. The basic contention is that with intensifying international competition across product and service markets, closures, especially prolonged closures, expose firms and their employees to the risk of losing markets and to long-term and potentially serious damage to their commercial performance or even viability. Where markets were more protected by national borders, unions had less to fear with respect to the commercial consequences of strike action, especially if collective bargaining and work stoppages occurred on a sector-wide basis, affecting all employments in much the same way. With trade liberalization, commercial survival may become more pressing, blunting the strike weapon and increasing the costs of industrial disputes for union members and employers (Dix *et al.* 2009; Godard 2011; Scheuer 2006). Also relevant here in the case of Ireland is the process of privatizing state-owned commercial companies that began with the flotation of the Irish Sugar Corporation in the early 1990s and extended to telecommunications, air transport and banking. This resulted in the transfer of hitherto highly protected firms, some with track-records of proneness to industrial conflict, to the private sector and their exposure to new competitive pressures. Within the state-owned sector, EU-instigated or nationally instigated deregulation and liberalization of energy, postal services and transport also opened significant state concerns to competition, and to the risk that further

liberalization might follow if state-owned firms were seen to be prone to conflict and disruption.

*Changes in the law:* Changes in the law surrounding collective bargaining or industrial conflict might curtail industrial action and reduce strike activity. This is commonly seen as a significant influence on the decline in industrial conflict in the UK (Dix *et al.* 2009). In the case of Ireland, Figure 2.6 overleaf presents data on the legal climate towards trade unions in the period since the 1940s. The relevant index (see the right-hand vertical axis and the upper trend line) can be regarded as an indicator of the latitude enjoyed by unions to represent members and to engage in industrial conflict.

It is evident that little change occurred until the advent of the 1990 Industrial Relations Act. The 1990 Act introduced mandatory ballots prior to industrial action, restricted picketing, rescinded immunities in disputes between workers and outlawed sympathetic strikes, other than in response to attempts by employers to frustrate industrial action. These provisions have been interpreted as significantly curtailing union power (see Wallace & O'Sullivan 2002). Subsequent changes introduced to facilitate representation of members in firms where employers refused to recognize unions – the so-called ‘right to bargain’ measures under the 2001–2004 Industrial Relations Acts – were not of direct significance with respect to unions’ power to institute industrial action, but nevertheless provided a new non-strike avenue for pursuing claims against employers unwilling to concede recognition.





**Notes & Sources:** The *Freeman and Pelletier Index* seeks to measure the overall favourableness of the body of industrial relations laws to unions. The index is a composite of 4 categories: (a) laws, including major court decisions, affecting recognition and bargaining rights, (b) laws pertaining to individual rights to associate/dissociate, (c) laws pertaining to immunities and (d) the effects of laws on the relative power of employers and unions. Each category is scored on a 1-5 scale, with 5 = laws that were most favourable for unions. Freeman and Pelletier constructed the index to cover the period 1941- 1988. It has been updated by Roche and also modified to exclude some laws that grant employment rights to employees. The negative coding for the effects of the 1990 Industrial Relations Act relies heavily on Joe, Wallace and Michelle O'Sullivan, 'The Industrial Relations Act 1990: A Critical Review', in Dart and Turner eds., *Irish Employment Relations in the New Economy*, Dublin: Blackhall Publishing 2002. See Richard Freeman and Jeffrey Pelletier, 'The Impact of Industrial Relations Legislation on British Union Density', *British Journal of Industrial Relations*, 1990, 28(2): 141-64. Tax credits in place from 2006-2009 for trade union subscriptions not included, as this incentive is not compatible with categories of Freeman & Pelletier index.

The *Employment Law Index* measures the cumulative body of employment statutes enacted from 1944 granting employees in general employment rights in the areas of pay and working conditions, employment security and participation. Laws pertaining only to particular categories or industries (e.g. mining, maritime workers, employees in chemical firms, employees working in health and public service agencies) are excluded. Laws granting employees in general protection when informing of unlawful practices (e.g. restriction of competition) are included. Multiple sources were used to compile the index. The index also includes laws that repeal or amend original and subsequent statutes in various areas (e.g. redundancy payments, unfair dismissals), usually by consolidating and extending employment rights in the areas concerned.

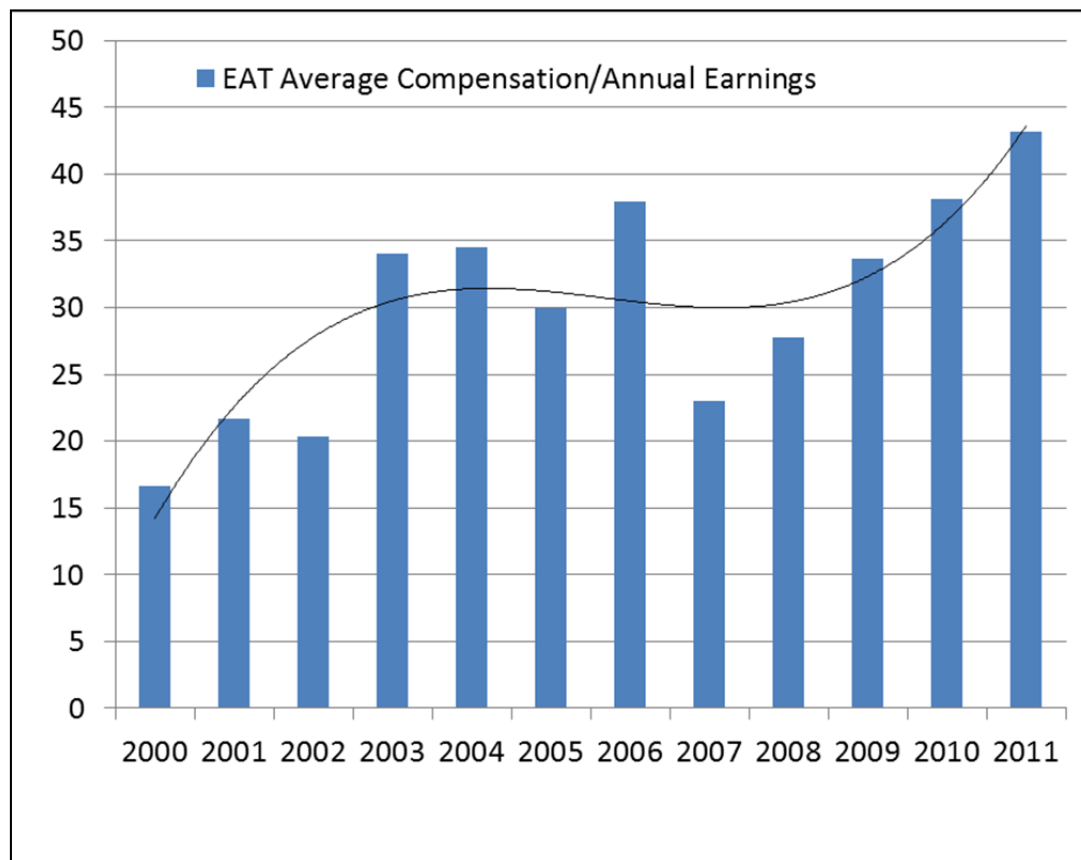
*Growth of employment rights:* Finally, the expanding body of employment law might have been expected to reduce industrial conflict by granting employees, including union members, enforceable rights across an ever-widening range of areas of work and employment. Figure 2.6 (left-hand vertical axis and lower trend line) indicates the dramatic acceleration in employment rights in Ireland during the period from the early 1990s. While the sharp rise in the index coincides with the drop in collective conflict, caution is necessary in supposing that union members became less willing to countenance or support industrial action because they could now increasingly seek redress on many issues from employers, possibly with support from their union representatives, which, if refused, they could pursue to outside agencies and tribunals. Some of the major issues that gave rise to strikes, such as claims for pay increases, were unlikely to have come within the ambit of the expanding body of employment rights, although other major issues, such as dismissal and redundancy, may increasingly have done. More significantly, no research evidence is available on whether employees became less willing to countenance or support industrial action because they believed that they had acquired work and employment rights that could be individually pursued with employers or external bodies. As such, the possible influence of the expanding body of employment legislation on the trend in collective conflict must remain a matter of conjecture.

How can the rise in individual conflict be accounted for? Table 2.5 again lists a series of influences and possible influences, some of which overlap with those examined in the case of declining collective conflict. Taking overlapping influences to begin with, the growing body of employment rights legislation, represented in Figure 2.6, is clearly an important influence on the rising incidence of individual conflict. Employees have gained an expanding body of rights of ‘industrial citizenship’ in Ireland, particularly from the 1990s, and this in part accounts for the rising incidence of grievances presented to bodies like the Rights Commissioner Service, the Employment Appeals Tribunal and the Equality Tribunal. Much of this legislation was instigated by the European Union. Employees also seem to have become more resolved to act on those rights, as evidenced by trends in the numbers pursuing grievances under various Employment Acts within the remit of the EAT and the Equality Tribunal. Whether one reason for this is that the value of awards has increased is a moot point. Data from the EAT on compensation in unfair dismissals cases indicate that the value of average awards has indeed increased. The ratio of average compensation to average annual earnings climbed from 17 per cent in 2002 to 44 per cent in 2010.<sup>8</sup> Figure 2.7 shows the trend in the average value of unfair dismissals awards in comparison with average annual earnings.



Compensation for unfair dismissals is limited to actual financial losses of up to a maximum of 104 weeks' remuneration. Nevertheless, the print media regularly carries reports of high-profile cases at the EAT and cases involving significant awards, but it is not apparent that press attention has itself significantly increased and led to growing public awareness of prevailing awards or to more people lodging complaints or grievances.

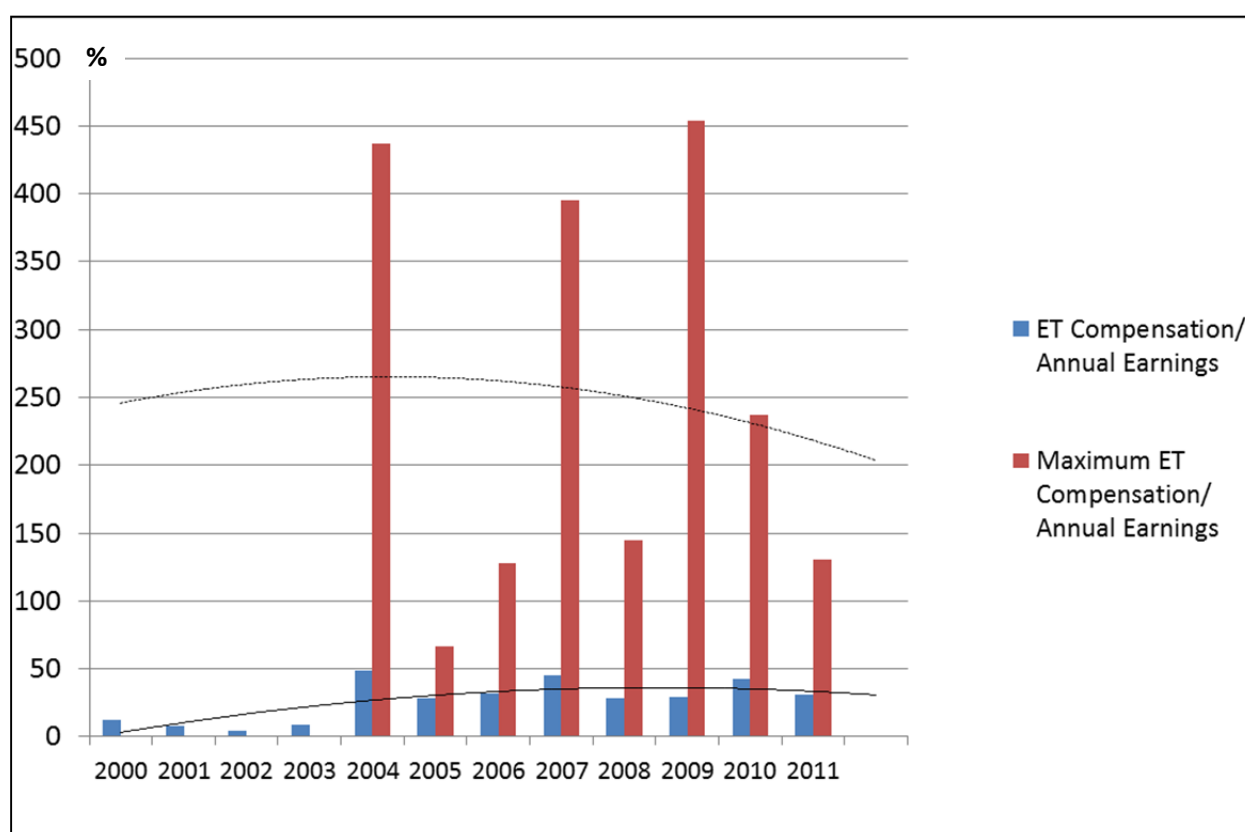
**Figure 2.7 Trend in the Value of EAT Awards in Unfair Dismissal Cases**



Sources: *Annual Reports of the Employment Appeals Tribunal*; Department of Finance, *Budget Statistics*, 2012, Table 48.

Figure 2.8 shows the trend in ET compensation in employment equality cases. Here the ratio of average awards and of maximum awards ('jackpot awards') to average earnings reveal no upward trend during the 2000s.

**Figure 2.8 Trend in the Value of Equality Tribunal Payments in Employment Equality Cases**



Sources: *Annual Reports of the Equality Tribunal*; Department of Finance, *Budget Statistics*, 2012, Table 48.

**Decline of trade union density and bargaining coverage:** Declining trade union density and collective bargaining coverage also means that a growing number of employees are constrained to rely on their own initiative in seeking to resolve grievances and vindicate employment rights. An increasing number of people working in the private sector – currently about three out of four – do not have the option of seeking collective representation to respond to problems and grievances at work and must rely on statutory employment rights alone.

**Changing social values:** Some commentators suggest that the decline in collective conflict may in part reflect underlying sociological change that has involved a rise in ‘individualization’ among people at work (Scheuer 2006: 156). To the degree that such a trend in values has been underway it might also be expected to manifest itself in the growing pursuit of individual grievances and the vindication of individual employment rights. Some sociological commentary chimes with this view, speaking variously of trends such as the ‘individualization of work’, or the ‘corrosion’ of people’s habits of identifying with and

making common cause with others in the workplace (Bauman 2000, 2001; Beck 2000; Beck & Beck-Gernsheim 2001; Sennett 1998). In line with this perspective, writing about the features of modern work, Bauman (2000: 148) makes reference to ‘contemporary fears, anxieties and grievances made to be suffered alone’. Plausible though such a perspective may seem, little empirical data exist to provide support for grand theorizing about individualization as a value disposition at work.

*Trends in employment and work experience:* If the rising trend in individual conflict has been ‘pulled’ by the expanding body of employment rights as well as by people’s growing resolve to assert those rights, could it also have been ‘pushed’ by changing work regimes and changing work experiences? Specifically, the key issue here is whether work and employment regimes have grown more insecure or more onerous, leading to increasing levels of discontent at work. Here, at least, data on trends in employment and work experience can be examined to see if they are consistent with the rising trend in individual conflict at work.

Reviews of cases referred to the Rights Commissioner Service and the EAT have shown that these services are disproportionately accessed by migrant and low-paid workers. Teague & Hann’s analysis of a large sample of referrals to the Rights Commissioners in 2006 revealed that migrant workers made up 29 per cent of the referrals (Teague & Hann 2010a: 11). This amounted to three times the proportion of migrant workers in the workforce.<sup>9</sup> In the case of the EAT, an analysis of all cases completed between 2005 and 2007 and spanning the period from 2000 revealed that 12 per cent were taken by migrant workers (Teague & Hann 2010b: 22). Though this represents a significantly lower proportion of referrals from migrants than in the case of the Rights Commissioners, it still means that migrant workers were over-represented by 1.3 times their presence on the workforce.<sup>10</sup> Thus one influence on the trend in individual conflict was the growing share of migrants in the workforce: over the period from 2000 to 2008, the share of migrant workers grew dramatically from under 3 per cent to 16 per cent, falling back to 12 per cent in 2011 in the wake of the economic crisis and recession.<sup>11</sup>

Regrettably no analysis exists of the employment status of people referring grievances to the Rights Commissioner Service, the EAT or the Equality Authority, so it is not possible to determine whether grievances are associated with less secure employment arrangements such as part-time and contract employment, the incidence of which rose significantly from the 1990s.

Turning to the features of work regimes and work experience, general reviews of developments in these areas in Ireland have concluded that there was little evidence of any clear progressive or regressive trend. The picture rather was a varied one, both between the different dimensions of work regimes and work experience and between different occupation groups (O'Connell & Russell 2007). This conclusion is consistent with the evidence presented in Table 2.7.

**Table 2.7 Trends in Work Experience**



Levels of work-related stress and pressure, including the intrusion of work into people's non-work lives, appear to have increased significantly from the 1990s, as evident in panels b., c. and f. of the Table, while the level of job satisfaction (panel e.), although remaining high, nevertheless declined. At the same time, people's ability to control their work, the tightness of the deadlines to which they had to work and the incidence of work found to be boring did not change in any clear direction (panels a., g. and h.). Relations between workers and management became less 'tense' during the 2000s. The most reasonable conclusion to draw from these trends in work experience is probably that no decisive deterioration in work regimes has occurred during recent decades that might help to account for growing individual conflict at work.

## Conclusions

The main trend in conflict in the workplace in Ireland is the decline in collective conflict and the rise in individual conflict, as reflected in a series of indicators of conflict of both types. Still, over the decade to 2010, more employees were involved in collective conflict than in grievances referred to the Rights Commissioners or the EAT. The issues involved in collective conflict have remained quite consistent over a long period of time, with disputes over pay being the single most contentious issue. Disputes concerned variously with recruitment, dismissal and redundancy and work reorganization have figured more frequently than pay in strikes since the 1980s. The public sector became more strike prone than the private sector from the 1970s. While the sectors converged during the 1990s, the public sector again became more strike prone during the past decade. Levels of strike activity have also declined sharply in both sectors. Little long-run change has occurred in the rankings of strike-prone industrial sectors.

The issues that have figured in individual grievances referred to the Rights Commissioners and the EAT mirror those at issue in collective conflict, although the precise manner in which they have done so is obviously shaped in major respects by the scope allowed by the employment laws that delineate the jurisdiction of these agencies. Trade unions continue to play an important role as guarantors of individual employment rights by commonly representing employees taking cases to these agencies. Grievance-prone and strike-prone sectors sometimes overlap, as in the case of construction and manufacturing, but sometimes grievance-prone sectors are quite distinct: for example, hotels and restaurants and real estate, renting and business services. Workplace bullying is more pronounced in education, public

administration, health, social work, transport and communications. The limited data available on the incidence of bullying preclude any conclusion regarding the trend. However, only minorities of those affected opt to use formal procedures within their organizations.

A range of influences on the trend in collective and individual conflict, some of which are common to both forms of conflict, were examined. Changes in the composition of the workforce that have involved a decline in employment in strike-prone industries as well as a decline in union density and the coverage of collective bargaining are important influences on the decline in collective conflict, as was the advent of centralized pay bargaining under social partnership. The changing competitive environment, which has made the strike a riskier and costlier remedy in workplace conflict, has also been significant. Changing priorities among union members with respect to preferred modes of representation are also likely to have been at work. In the case of rising individual conflict, the dramatic expansion in employment rights from the 1990s was a significant influence, but so too was the greater resolve of employees to assert and vindicate those rights. The rising real value of compensation at the EAT may have played a role with respect to that institution, but EAT cases have also been marked by a significant counter-cyclical pattern. As progressively fewer employees in the workforce can resort to collective remedies via trade unions and collective bargaining, more have resorted to individual remedies in employment disputes. Trends in the real value of average EAT awards show a significant rise over time, although maximum awards are capped in ratio to salary. No upward trend is evident in the real value of either average or maximum Equality Tribunal awards. While changing social values reflected in the rise of individualization are commonly believed to have affected attitudes and behaviour in the workplace, there is little direct or indirect evidence that individualization has been a potent force in rising individual conflict. Finally, trends in the features of work regimes and in employees' work experiences do not point consistently towards growing underlying work discontent as one of the influences behind rising individual conflict.

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## Notes

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<sup>1</sup> The non-linear time-trends fit one or more polynomial terms to trend estimations to provide an acceptable fit to underlying annual data.

<sup>2</sup> It also needs to be recognized, however, that the deregulation of commercial public companies in recent decades has itself become a significant issue in conflict within the sector.

<sup>3</sup> These data are likely to be reasonably consistent with longer-term patterns, as the pattern of referrals to the Rights Commissioners for 2006 is broadly in line with the record for much of the 2000s. See Cashell 2010: 8.

<sup>4</sup> Data in Hann & Teague 2008a: 37–8, weighted by ILO employment data for 2006.

<sup>5</sup> Data in Hann & Teague 2008a: 38, weighted by health sector employment for 2006 from database of the Department of Public Expenditure and Control.

<sup>6</sup> Data in Hann & Teague (2008b: 29), weighted by average ILO employment data for the period 2000–2007.

<sup>7</sup> Based on trade union membership records and on membership returns to the Department of Jobs, Enterprise and Innovation.

<sup>8</sup> Based on average compensation levels published in the *Annual Report of the Employment Appeals Tribunal* for 2002 and 2010 and data on average annual earnings published by the CSO.

<sup>9</sup> Data in Teague & Hann (2010a) weighted by data on the level of employment of non-Irish nationals contained in the *Quarterly National Household Survey*.

<sup>10</sup> Data in Teague & Hann (2010b) reveal that most cases analyzed were referred over the period from 2003 to 2007. Cases were weighted by data on the average level of employment of non-Irish nationals over this period in the *Quarterly National Household Survey* and other sources.

<sup>11</sup> Data on non-Irish born workers in the workforce were obtained from the series published in the CSO, *Quarterly National Household Survey*. Data for 2000 obtained from Hughes *et al.* 2007.